

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:07-CR-00297-F-1
No. 5:16-CV-00262-F

WILLIE JAMES BEAN,)
Petitioner,)
v.)
UNITED STATES OF AMERICA,)
Respondent.)

O R D E R

This matter is before the court on Willie James Bean's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [DE-147]. The issues have been fully briefed, and the matter is now ripe for ruling. For the reasons more fully stated below, Bean's Motion to Vacate is ALLOWED.

In Bean's Motion to Vacate, he argues that he is no longer an armed career criminal as a result of *Johnson v. United States*, 135 S. Ct. 2551 (2015). Mot. Vacate [DE-147] at 4. In particular, Bean contends that his North Carolina convictions for assault with a deadly weapon and assault with a deadly weapon inflicting serious injury are no longer valid predicate convictions for the Armed Career Criminal Act ("ACCA"). *Id.*

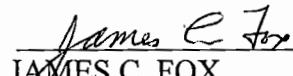
The Government concedes that Bean's prior North Carolina conviction for assault with a deadly weapon is no longer a violent felony and that he is no longer an armed career criminal under 18 U.S.C. § 924(e). Resp. [DE-156] at 1. The Government concludes that Bean's sentence should be vacated, and the court should hold a resentencing hearing. *Id.* at 2.

In light of the foregoing, including the Government's concessions, Bean's Motion to

Vacate [DE-147] is ALLOWED. Bean's September 16, 2008 Judgment [DE-54] of conviction and sentence hereby is VACATED, and he is to be promptly resentenced without the § 924(e) enhancement.

SO ORDERED.

This, the 24 day of August, 2016.



JAMES C. FOX
Senior United States District Judge